

**MINUTES OF THE JOINT EXECUTIVE APPROPRIATIONS
COMMITTEE MEETING**

November 16, 2010 at 1:00 P. M.

Room 445, State Capitol, State Capitol Complex

Members Present:	Sen. Lyle W. Hillyard, Co-Chair Rep. Ron Bigelow, Co-Chair Rep. Bradley G. Last, Vice Chair Rep. Douglas C. Aagard Rep. David Clark, Speaker Rep. Brad L. Dee Rep. James R. Gowans Sen. Scott K. Jenkins Sen. Patricia W. Jones Sen. Peter C. Knudson Rep. David Litvack Rep. Rebecca D. Lockhart Rep. Carol Spackman Moss Sen. Wayne L. Niederhauser Sen. Luz Robles Sen. Ross I. Romero Rep. Jennifer M. Seelig Sen. Michael G. Waddoups, President
Members Excused:	Sen. Daniel R. Liljenquist, Vice Chair Sen. Karen Mayne
Staff Present:	Jonathan Ball, Legislative Fiscal Analyst Steven Allred, Deputy Director Greta Rodebush, Legislative Secretary
Speakers Present:	Becky Bruso, Governor's Office of Planning and Budget Patrick Lee, Office of the Legislative Fiscal Analyst Jim Karpowitz, Department of Natural Resources Stephen Jardine, Office of the Legislative Fiscal Analyst John Nixon, Governor's Office of Planning and Budget Clifford Strachen, Governor's Office of Planning and Budget David Walsh, Governor's Office of Planning and Budget Dr. Andrea Wilko, Office of the Legislative Fiscal Analyst Dr. Thomas Young, Office of the Legislative Fiscal Analyst Gary Ricks, Office of the Legislative Fiscal Analyst

Note: A copy of related materials and an audio recording of the meeting can be found at www.le.utah.gov.

A list of visitors and a copy of handouts are filed with the committee minutes.

1. **Call to Order/Approval of Minutes**

Co-Chair Bigelow called the meeting to order at 1:09 p.m. No action on the minutes was taken at this time.

2. **Federal Funds/ARRA/Non-Federal Grants Reports**

Federal Funds

Becky Bruso, Governor's Office of Planning and Budget, presented the Federal Funds Report through October 31, 2010. There were two new federal grants and six reapplications of existing grants requiring legislative action. The Governor's Office approved three new federal grants, four reapplications of existing grants, and one revision of an existing grant.

ARRA Federal Funds

Ms. Bruso presented the ARRA Federal Funds Report through October 31, 2010. There were no new ARRA grants and no reapplications of existing grants requiring legislative action. The Governor's Office approved no new ARRA grants and no reapplications of existing grants.

Non-Federal Grants

Ms. Bruso presented the Non-Federal Grants Report through October 31, 2010. There were no new non-federal grants and no reapplications of an existing grant requiring legislative action. The Governor's Office approved one new non-federal grant and two reapplications of existing grants.

Committee Discussion

President Waddoups distributed copies of a memo from Patrick Lee, LFA, with additional information on the five federal reapplications of existing grants for the Department of Natural Resources. He noted that some of these grants involve the purchase of private lands for public use and access to wildlife resources.

President Waddoups also pointed out that the reapplication for the Department of Community and Culture, NEA Partnership Agreement, supplements state appropriations for art programs. The federal award is \$838,400 with a state match of \$838,400. The match is an existing program expense.

President Waddoups asked for a clarification on the federal grant approved by the Governor's Office, Governor's Office of Economic Development, State Planning and Establishment Grants for the Affordable Care Act's Exchange. The grant expands the Utah Health Exchange to individual insurance and large group insurance markets. The federal award is \$1 million, with no state match.

Finally, President Waddoups stated that he had received some feedback regarding the federal grant approved by the Governor's Office, Education, Advanced Placement Test Fee Program. This grant pays a portion of the exam fees for Advanced Placement and International Baccalaureate courses for low-

income students. The federal award is \$137,148. President Waddoups wondered if we should be encouraging local school districts to get involved with this program. The federal award of \$137,148 has increased from \$102,840.

Sen. Jenkins inquired about the in-kind state match from donated land on the federal reapplication for the Department of Natural Resources, Endangered Species Program. The federal award is \$1 million with a state match of \$320,000. Jim Karpowitz, Director, Division of Wildlife Resources, explained that The Nature Conservancy (TNC) purchased trust land from SITLA using federal funds and local government funding sources. This land, known as the "White Dome Preserve," is located in Washington County and represents the third phase of an acquisition project that protects habitats for endangered species.

Speaker Clark explained that the White Dome is a geologically unique structure that cannot be developed nor generate taxes.

MOTION: Co-Chair Hillyard moved to recommend acceptance of the federal, ARRA, and non-federal grants as outlined on page 1, "Federal/Non-Federal Grants Review and Approval" under the heading, "Grants Requiring EAC Review and Recommendation" and dated today, November 16, 2010. The motion passed unanimously with Sen. Jones, Sen. Romero, and Sen. Robles absent for the vote.

MOTION: Co-Chair Hillyard moved to approve the minutes of the Joint Executive Appropriations Committee meeting on October 19, 2010. The motion passed unanimously with Sen. Jones, Sen. Romero, and Sen. Robles absent for the vote.

3. LFA In-depth Budget Review: Department of Human Services

Stephen Jardine, LFA, presented the In-depth Budget Review. He directed his comments primarily to the Executive Summary on page 7 of the report, that included background information, the Department's mission statement, statutory authority, and 15 major recommendations (see page 7 of the report: <http://le.utah.gov/interim/2010/pdf/00001613.pdf>).

The 293-page In-depth Budget Review also included an analysis of each of the Department's seven divisions as well as buildings and vehicles. There were also three appendices: Appendix 1 - Department-wide Information and Appendix 2 - Division Specific Information (<http://le.utah.gov/interim/2010/pdf/00001614.pdf>); and Appendix 3 - Department and Division Information (11x17) (<http://le.utah.gov/interim/2010/pdf/00001615.pdf>).

Mr. Jardine expressed his appreciation to the Department of Human Services and Executive Director, Palmer DePaulis, for their help and cooperation. He also thanked LFA team members and OLAG auditors for their work on the report.

Committee Discussion

Sen. Niederhauser raised questions about the consolidation of payment systems, the reliability of

performance measures, division spending (administrative vs. delivering services), DHS's broad statutory authority and cost accounting.

In regards to a possible consolidation with the Division of Finance FINET accounting system, Jonathan Ball, LFA, stated that setting DHS up in FINET may require significant one-time funding. The Department needs to follow up first on the recommendation to post its vendor/payee transactions on the Transparency website. The next step would be for consolidation. Mr. Ball stated that there is some efficiency in having an enterprise wide payment system.

Mr. Jardine commented on the recommendation that all department divisions follow best practices for performance measures. He stated that the performance measures might not be adequate for some programs.

Mr. Jardine also clarified that during FY 2010, DHS paid about \$345 million to local and private providers. A closer look at the division spreadsheets will give a more accurate picture of how revenues are distributed.

Rep. Lockhart stated that it would be important for the Development Center and the State Hospital to report overhead cost per patient per acuity level.

Rep. Litvack asked about statewide facility planning in reference to the recommendation that DFCM assist the Office of Recovery Services (ORS) in finding other state agencies to share 23,000 square feet of vacant lease space in the HK towers. Mr. Jardine stated that better statewide facility planning has application to other state agencies as well.

Rep. Litvack also inquired about cost savings and efficiencies across divisions. Mr. Jardine stated that there are agency cross cutting issues that could be addressed.

Co-Chair Bigelow stated that the Department of Human Services would not be responding to the In-depth Budget Review in today's meeting. He asked staff to communicate to DHS that EAC would like a written response to the review.

Speaker Clark expressed his appreciation for the staff's effort. He commented on DHS's occupation costs and the need for better planning and utilization. Speaker Clark asked if the information in the In-depth Budget Review will help the Legislature in allocating resources. Mr. Jardine stated that while the report has identified areas for needed improvement, the report would help in the decision making process.

Co-Chair Hillyard complimented Mr. Jardine and LFA staff for their work on the report.

Co-Chair Hillyard recommended that the In-depth Budget Review be referred to the Health and Human Services Appropriations Subcommittee that will be meeting on November 18, 2010. He mentioned Rep. Bigelow's request for a written response from the Department and stated that he would email the EAC motion sheet to committee members to review before the December 14, 2010 meeting.

Jonathan Ball publicly thanked lead analyst, Stephen Jardine, and team members Steven Allred, Rich Amon, Ivan Djambov, Stan Eckersley, Russell Frandsen, Spencer Pratt, and Gary Syphus for their work on the report.

MOTION: Co-Chair Hillyard moved to move onto the next item on the agenda.

Co-Chair Bigelow stated that the motion implies that EAC will be including the DHS In-depth Budget Review on the December agenda.

The motion passed unanimously with Sen. Robles absent for the vote.

4. GOPB In-depth Budget Review: Medicaid Coordination

John Nixon, Executive Director, Governor's Office of Budget and Planning (GOPB), offered some introductory remarks and recognized the agencies and their finance staff who worked with GOPB in preparing the report.

The In-depth Budget Review, entitled, "Medicaid Coordination & Reporting Study," focused on the following areas: 1) the consolidation or improved coordination of the Medicaid program by the Department of Health, the Department of Human Services, and the Department of Workforce Services; 2) a format for a unified annual report from the three departments, and any other state agency receiving Medicaid funds; and 3) options for coordinated reporting from those performing final expenditures via contract.

Clifford Strachen, GOPB, reported on the consolidation or improved coordination of the Medicaid program.

David Walsh, GOPB, reported on the format for a unified annual report on Medicaid and CHIP expenditures, and options for coordinated reporting from those performing final expenditures via contract. He also discussed examples for reports on Medicaid funding, expenditures, and caseloads.

Report findings indicated that the departments of Health and Workforce Services have proactively collaborated to address some of the issues with Medicaid eligibility and service delivery. In addition strides have been made to streamline communication, improve the policy change process, and align policies across all programs wherever possible.

GOPB recommended that 1) the departments continue their efforts to collaborate on Medicaid process improvement; 2) establish a target day by which these efforts will be completed; 3) DOH be responsible for collecting data and publishing a unified annual report on Medicaid and Children's Health Insurance Program (CHIP) expenditures; 4) DOH deliver a coordinated report annually to GOPB and the Chairs of the Executive Appropriations Committee by December 31; and 5) the report be expanded to include Medicaid expenditures by contracted providers.

Committee Discussion

Sen. Niederhauser asked about recovery audits. Mr. Nixon clarified that based on the recommendation of the Governor's Optimization Commission, the Department of Health issued an RFP to do a recovery audit on the Medicaid program.

Michael Hales, Executive Director, DOH, discussed the three components of the RFP on the most recent fraud, waste, and abuse recovery audit, and the time line for completion.

Sen. Niederhauser asked if the audit would include suggestions on consolidation. Mr. Hales stated that additional expertise might bring in some new ideas on how things are done in the private sector.

Mr. Hales stated that while the fraud, waste, and abuse recovery tool should be fully functional by August or September of next year, the Legislature could expect some interim information on claim payments that will be generated by a pre-screening tool and the Fraud Abuse Detection System (FADS).

Sen. Robles asked if Centers for Medicare and Medicaid (CMS) clearly states that services for fraud, waste, and abuse can be outsourced. Mr. Hales stated that the RFP has been sent to CMS, that CMS has approved the RFP, and that the RFP is out for review.

Sen. Robles asked what about the percentage increase in Medicaid caseload. Mr. Hales said that the caseload growth in FY 2009 was 19 percent growth and slightly less than 14 percent in FY 2010.

Speaker Clark referenced a previous audit conducted by the Office of the Legislative Auditor General (OLAG) suggesting that Utah would be able to recover about 3 percent of what was spent in Medicaid fraud, waste, and abuse. He stated that it has been 18 months since we have had formal discussions on the audit. With today's projected time table, Speaker Clark wanted to know how DOH justified its budget. Mr. Hales stated that OLAG estimated that 3 percent recovery equates to \$47 million in Utah. To date, the DOH has recovered \$27 million. Mr. Hales expects that once the fraud, waste, and abuse tools are in place, DOH should be able to recover the additional \$20 million.

Speaker Clark asked about the role of DOH's internal audit group. Mr. Hales explained that as a Deputy Director over Medicaid, he does not have any direct line supervision over internal audit functions. The Department's audit response committee is charged with implementing audit findings. In addition, the State Auditor annually reviews Medicaid expenditures. CMS also provides regular oversight as does the Office of Inspector General from the U.S. Department of Health. Speaker Clark asked if he would be opposed to giving the internal audit group additional independence. Mr. Hales responded that he is not opposed to exploring any option that reassures people that the Department is implementing the program properly.

John Nixon commented that internal auditors play a functional role as part of the management process within an agency or department. Speaker Clark suggested that additional accountability could be handled by GOPB. Mr. Nixon said that he could look at that model.

5. Revenue Report

Dr. Andrea Wilko and Dr. Thomas Young, LFA, presented the report entitled, "Revenue Update," dated November 16, 2010. The report disclosed final revenue figures for FY 2010 as well as collections to date and changes to the forecast for FY 2011. The report also included a discussion on wages and employment, demographics, housing and construction, and national economic conditions.

Dr. Wilko stated that current estimates for FY 2011 indicate that revenues will be \$6.4 million above the February target of \$183 million in new revenue growth. Regarding FY 2010, General Fund/Education Fund revenue ended \$45 million below February targets, but once expenditure adjustments were made, the deficit was \$28 million.

Dr. Young reported that the General Fund is expected to be \$1 million above February FY 2011 target. Sales tax which represents about 80 percent of the revenue to the General Fund, ended FY 2010 \$28 million below the February consensus. This was largely due to under performance of food stores, restaurants, electric & gas, communications, and other sectors. Sales tax is expected to rebound this year by about 3 percent.

Dr. Wilko reported that the Education Fund is expected to be about \$5.5 million above the February FY 2011 target. The makeup of this revenue growth can be attributed to adjustments in the individual income tax (down \$51 million), and adjustments in the corporate income tax (up \$56 million). Wages do appear to be moderating with personal income growth of 4.2 percent expected for CY 2011.

Dr. Wilko discussed wages and employment. The labor market is beginning to see growth in some areas, particularly in the business and professional services. Employment is beginning to recover but at a slow rate of 1.4 percent in CY 2011 or 16,500 jobs. Total wages could grow by 3.7 percent in CY 2011 as well. Personal income over this same period is expected to grow by 4.2 percent.

Dr. Wilko discussed adjusted gross income changes throughout the state from 2009 to 2010. Total wages and income declined in 83 percent of the state's zip codes indicating the far-reaching nature of the recession. While there are signs of a modest recovery in employment and wages, consumer constraint and business uncertainty will continue to affect the labor market.

Dr. Wilko also discussed Utah demographics including migration. Overall migration has slowed since 2007, reaching a low of 1,500 individuals in CY 2009. She estimates that migration will increase to 10,000 each year for CY 2010 and CY 2011. Dr. Wilko expects that most of the in-migration over the next two years will not expand the demand for housing or increase household formation but rather increase the household size.

Dr. Young discussed the housing and construction market. Non-residential construction continues to decline and is expected to bottom out in CY 2011. Single family permits are up 26% from a year ago, but not enough to cover the 40% decline in condominium and new apartment construction. Home prices are generally still not increasing, and are not expected to increase until CY 2012.

Dr. Young discussed national economic conditions, including continuing and initial unemployment claims and the unemployment rate, which came in at 9.5 percent. While the economy generated 159,000 jobs last month, it needs to create 225,000 jobs per month to keep the unemployment rate from rising. Finally, the recovery in spending and personal income has been slow.

Dr. Wilko reviewed the Revenue Collections to Date report. The FY 2011 GF/EF year-to-date growth rate is 9.7%, but she expects to see this move closer to the FY 2011 consensus growth rate of 8.4 percent.

Co-Chair Hillyard asked about the 115.8% increase in beer, cigarette, and tobacco tax. Dr. Wilko stated that the reason for that increase is probably due to the floor tax.

Sen. Jenkins asked if the National Security Agency (NSA) Data Center is considered in non-residential permit value. Dr. Wilko indicated that the NSA building does not show up in non-residential permitted value because it is not permitted. The NSA building is accounted for in revenues.

6. Sick and Annual Leave Versus Paid Time Off

Gary Ricks, LFA, reported on Item No. 246 of the Master Study Resolution (S.J.R. 15) from the 2010 General Session called "Vacation Leave Policies - to study and conduct an analysis of sick and vacation leave policies versus paid time off."

Mr. Ricks explained that Paid Time Off (PTO) combines annual and sick leave accounts into one account and allows employees to use all provided leave hours at their own discretion. A switch to PTO could decrease administrative complexity in accounting for managing leave time, and increase efficiency in the long-run. Depending on the PTO structure, it could generate cost savings and reduce payout for accrued compensated absences.

Mr. Ricks elaborated on one example of productivity savings, replacing current accruals of annual and sick leave with 130 hours or 13 days of PTO. Under this scenario, the state could expect to realize approximately \$31 million of additional productivity. He did point out that to replace leave time with an increase in employee salaries would cost the state approximately \$41 million.

Mr. Ricks stated that under HB 213 (2005 General Session) the state recognizes and funds retiree health benefits liabilities. However, the state does not recognize up-front costs of leave payouts to retirees and current employees. These liabilities are increasing as evidenced in Table 4 - Termination Pool Payments, FY 2007 - FY 2010 on page 7 of the report. The Analyst recommends that regardless of the decision to implement the PTO program, the State should recognize and sink the cost of leave payouts to retirees as they accrue.

Mr. Ricks discussed some legal and managerial issues, such as property rights, and possible unintended consequences associated with human behavior.

Mr. Ricks presented five options on how policymakers might proceed: 1) do nothing; 2) offer PTO to new hires only; 3) allow current employees to opt-in to a PTO program; 4) wholesale change; and 5) some combination of the above. Mr. Ricks emphasized that a change to PTO should be carefully

considered in a policy making committee prior to making PTO budget related changes. He stressed that the Legislature needs to recognize growing compensated absences liabilities and set aside resources to cover these liabilities before they happen.

MOTION: Co-Chair Hillyard moved that the Executive Appropriations Committee refer this report to the Retirement and Independent Entities Appropriations Subcommittee for further study and review for possible action during the upcoming 2011 General Session.

Sen. Robles asked about the legal concerns. Mr. Ricks stated that there might be some issues related to property rights with the current annual and sick leave programs. LRGC would have to handle these issues.

Rep. Seelig asked if a move to PTO would decrease the amount of time off for employees. Mr. Ricks said that the Governor and the Legislature would have to decide how leave would be reduced.

The motion passed with Sen. Robles voting in opposition.

7. November Special Session Bills

A copy of H.J.R. 201, "Joint Resolution Approving Acceptance of Federal Education Funds," was distributed to the committee.

Rep. Lockhart explained that the joint resolution of the Legislature approves acceptance by the state of Utah of \$101 million in federal education funds from Public Law 111-226, Sec. 101, Education Jobs Fund.

Pres. Waddoups expressed his appreciation for the messaging in the resolution. He recommended that a copy of this resolution be sent to Utah's congressional delegation and Utah's neighboring states.

Rep. Lockhart stated that since the bill had been numbered, any change in wording would require a Senate floor amendment followed by the mailing. If done informally, copies could be sent without any word changes.

MOTION: Speaker Clark moved that the Executive Appropriations Committee adopt the joint resolution for tomorrow's Special Session.

Rep. Litvack stated that for the most part, the resolution places funding for our education and our children's education above politics. However, the messaging in the resolution regarding the federal governments circumventing state legislatures and the state legislatures' appropriation process is misplaced. The focus of the resolution should be funding for education.

Sen. Robles said that it is critical to move forward with this funding. She also did not think that the messaging in the resolution was appropriate to the legislation. Sen. Robles did not feel comfortable with

the wording on lines 30 through 34. She anticipated further discussion on the resolution in tomorrow's Special Session.

Rep. Lockhart waived summation.

Speaker Clark referenced the Utah Constitution that states that the constitutional authority for budgetary practice begins with the State Legislature. He stated that he was very comfortable with the resolution's language. He expressed concern that the federal government was circumventing the legislative process and the Governor as well. The messaging is as much about the process as it is about our children's education.

The motion passed unanimously.

8. Other Business

Co-Chair Bigelow called attention to two required reports for committee review: 1) "2010 Report of the Elected Official and Judicial Compensation Commission," and 2) "Factors Driving Budget Requests" behind Tab 8.

President Waddoups expressed appreciation to those who presented today's reports.

Co-Chair Bigelow recognized Co-Chair Hillyard for a motion.

MOTION: Co-Chair Hillyard moved to adjourn. The motion passed unanimously.

Co-Chair Bigelow adjourned the meeting at 3:39 p.m.